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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/550,817

09/23/2005

Stefan Jatzke

TRW(AEC)7821

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EXAMINER

SMALLEY, JAMES N

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

11/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/550,817 | Applicant(s) JATZKE ET AL. | |
| | Examiner JAMES N. SMALLEY | Art Unit 3781 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

1. Examiner notes the previous grounds of rejection are hereby withdrawn and new grounds are presented below. Accordingly, this Action is **Non-Final**.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sick US 5,071,022 in view of Andrews US 4,363,420.

Sick '022 teaches a plug for sealing vehicles, comprising a central closure section/hollow cylindrical section (9), and an engaging section (3), noting in column 2, lines 54-57, that lip (5) seals on the upper side of the panel, and lip (6) seals on the under side of the panel.

The reference, as applied, fails to teach the plastic of the engaging section being softer than the plastic of the central closure section, and which can also be softened by heat.

Andrews '420 teaches a plug comprising a central closure section (2), an engaging section (15), both formed of plastics, the plug is taught to be formed of "a suitable plastic material which would be of good impact strength and abrasion resistance" (column 4, lines 44-47), the engaging section/sealing plastic is formed of EVA or other materials which are taught to be "low softening" (column 4, lines 40-41) thus the engaging section is likely softer than the plug portion, for melting and filling in "irregularities in the adjacent surfaces of the flange portion of the plug and panel" (column 1, lines 66-68).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the plug of Sick '022, providing the heat-softening plastic material taught by Andrews

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'420, motivated by the benefit of providing means to fill in irregularities in the panel and provide an optimal seal between the plug and panel.

Regarding claims 2 and 7, Andrews '420 teaches the sealant is "clamped between the edge portion 16 of the flange portion 3 and the neck surface 12 of each leg" (column 3, lines 35-37), which is tread to be an interlocking fit. It would be obvious to apply the same interlocking fit to the plug of Sick '022 in order to prevent separation of the two elements.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sick US 5,071,022 in view of Andrews US 4,363,420 as applied above under 35 U.S.C. 103(a) to claim 1, in view of Schmitz et al. US 4,588,105.

Sick '022, as modified above, teaches all limitations substantially as claimed, but fails to teach the melt temperature of the sealant occurring between 150 and 200 degrees Celsius.

Schmitz '105 teaches a plug for an opening in an automobile panel, and discloses in column 4, line 18 that the melting can occur anywhere between 85 and 180 degrees Celsius. It would be desirable to use this material on the plug of Sick '022, which only teaches melting occurring between 100 and 135 degrees Celsius, in order to provide the manufacturer with a greater range of temperature operation.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the plug of Sick '022, providing the sealant taught by Schmitz '105, motivated by the benefit of providing the manufacturer with a greater temperature range of operation. Furthermore, Examiner notes it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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Allowable Subject Matter

5. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES N. SMALLEY whose telephone number is (571)272-4547. The examiner can normally be reached on Monday - Friday 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James N Smalley/
Examiner, Art Unit 3781

/Anthony D Stashick/
Anthony D Stashick
Supervisory Patent Examiner, Art Unit 3781